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ORIGINAL

October 11, 2007

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-325
445 12th Street, S.W.
Washington D.C. 20554

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Federal Communications Commission
Office of the Secretary

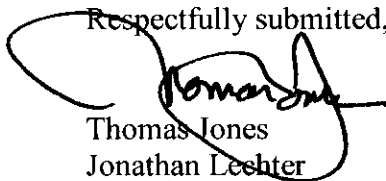
Re: In the Matter of Special Access Rates for Price Cap Local Exchange Carriers,
WC Docket No. 05-25

Dear Ms. Dortch:

On behalf of Time Warner Telecom Inc., please find enclosed two copies of a redacted version of an *ex parte* letter filed today in the above referenced docket. Pursuant to the protective order in this proceeding, two copies of a confidential version of this letter have been filed with Margaret Dailey or Pamela Arluk and one copy of a confidential version of this letter has been filed with the Secretary.

Please let us know if you have any questions with respect to this submission.

Respectfully submitted,



Thomas Jones
Jonathan Leichter

WILLKIE FARR & GALLAGHER LLP
ATTORNEYS FOR TIME WARNER TELECOM INC.

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October 11, 2007

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-325
445 12th Street, S.W.
Washington D.C. 20554

Re: WC Dkt. Nos. 06-125; 05-25

Dear Ms. Dortch:

The purpose of this letter is to explain in more detail the design and content of the enclosed pricing charts.¹ These charts demonstrate that ILEC DS-1, DS-3, OCn and Ethernet “discounted” price cap and Phase II rates are well in excess of competitors’ rates.

TDM Price Charts

The TDM price charts compare ILEC DS-1 and DS-3 zero mile, five mile and 10 mile rates that TWTC pays in “zone 1” areas in price cap MSAs and Phase II MSAs under its substantial term commitments and discount contracts with UNE and competitive wholesaler rates.² To determine the rate that TWTC pays in price cap and Phase II MSAs, TWTC used the straight average of the prices that it pays a particular RBOC in all of the states in which it serves customers in that RBOC’s region. For the Qwest and legacy BellSouth regions, no averaging is necessary, because TWTC pays the same price in every state in those respective regions for each loop at issue. For example, TWTC pays Qwest **[proprietary begin] [proprietary end]** for a five mile DS-1 loop in all of Qwest’s states in Phase II MSAs where TWTC has a presence. Similarly, the UNE rate for each RBOC for each particular loop

¹ A similar letter was filed on September 7 in the above-referenced dockets. This letter clarifies certain points from that letter, goes into additional detail on certain issues and corrects some minor errors. The charts attached to this *ex parte* also correct some minor errors in the charts previously filed in these dockets based primarily on out of date tariffs and other pricing information.

² TWTC subscribes to various discount special access plans/tariffs from the RBOCs. **[proprietary begin] [proprietary end]**

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type was derived by averaging the “zone 1” UNE rate for that loop length across all of the states in each RBOC’s region where TWTC has a presence. Both the UNE and special access rates are comprised of one channel termination charge, and, where applicable, a fixed mileage charge and a variable interoffice charge. The legacy BellSouth and SBC rates do not take into account the merger mandated price reductions as these are temporary in nature.

The “competitor” price is a straight average of the wholesale prices that TWTC charges in its largest markets³ along with the prices of four other competitors that have provided wholesale price quotes to TWTC in a number of markets across the country. Of the five competitors used to calculate the average, [proprietary begin] [proprietary end].

The average competitor price is somewhat inflated vis-a-vis the ILEC prices for three reasons. *First*, unlike the ILEC prices, the TWTC price used as part of the average is the price for the complete circuit, consisting of the equivalent of two channel terminations and, where applicable, interoffice mileage. Had the charts instead included the TWTC price of only a single channel termination and mileage, as was the case with the ILEC rates, the average competitor prices would have been lower. For example, [proprietary begin] [proprietary end].

Second, the competitor average was calculated using only one year competitor term prices. If TWTC had included its five year term price (which is a reasonable comparison given that it had to agree to a [proprietary begin] [proprietary end] term with Verizon to obtain the prices shown), the average competitor price would have been even lower.

Third, unlike the other RBOCs, legacy BellSouth charges, assuming a five year term, a variable mileage charge of \$97.95 *per half mile* in price cap areas and \$150 Phase II areas for the portion of a DS3 circuit from the customer location to the CO. *See* BellSouth FCC No. 1 § 7.5.9 (A)3; § 23.5.2.9 (A)(2). These loop charges were not included at all in the BellSouth’s DS3 TDM charts. These are in addition to any fixed and variable interoffice mileage charges that may be imposed by BellSouth.

[proprietary begin] [proprietary end]

OCN Price Charts

The OCn price charts compare the one and three year rates in Phase II and price cap MSAs of legacy SBC, Qwest and legacy BellSouth and the “offer” rates of Verizon to TWTC’s rates for two fiber OC-3 and OC-12 circuits.⁴ As is the case with TDM rates, the legacy BellSouth and SBC OCn rates do not take into account any mandated merger price reductions. Simple ILEC term rates are

³ The TWTC price is the median between the “list price” that TWTC offers its wholesale customers in its largest markets and the “discounted” price that TWTC sales personnel can offer customers in its largest markets without managerial approval.

⁴ Legacy BellSouth rates: price cap-FCC No. 1 § 7.5.9(a), phase II-FCC No. 1 § 23.5.2. Legacy SBC rates (for Ameritech): price cap-FCC No. 73 § 40.3(a), phase II- FCC No. 73 § 35.5.2.17. Qwest rates: price cap FCC No. 1 § 7.14, phase II- FCC No. 1 § 17.2.

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shown because **[proprietary begin] [proprietary end]**. These standard discounts are the lowest prices that TWTC sales personnel can offer in its largest markets without managerial approval.

The prices shown are for "CO" to "Premises" circuits (*i.e.*, the price of a circuit from the ILEC central office to a customer premises). **[proprietary begin] [proprietary end]** These higher priced circuits are not included in the price comparison.

The price difference shown understates the difference between the TWTC and RBOC rates for two reasons. **[proprietary begin] [proprietary end]** *Second*, as with its DS3 prices, legacy BellSouth charges a variable mileage charge for the segment of an OCn circuit from the customer premises to the nearest Bellsouth CO. The first half mile is free. For each additional half mile, on a one year term, BellSouth charges \$131.75 in price cap MSAs and \$190 in Phase II MSAs. *See* BellSouth FCC No. 1 § 7.5.9; § 23.5.2.9 (A)(3). The enclosed pricing charts assume that the segment of the circuit from the premises to the nearest BellSouth CO is only 1.5 miles long. However, in most cases, the channel termination segment is longer. Again, these charges are in addition to any fixed or variable interoffice mileage charges that BellSouth may impose.

ILEC OCn pricing is fairly complex and different rate elements must be combined to provide different levels of service. TWTC's OCn prices are much simpler, **[proprietary begin] [proprietary end]** To obtain a similar level of service that TWTC provides at wholesale, TWTC would need to purchase, for example, from Qwest: (1) A "node" or "port" at *each end* of the circuit, (2) a "remote" "node" or "port" on one end of the circuit and, (where applicable) (3) a fixed interoffice mileage charge as well as a variable interoffice mileage charge.

Qwest charges \$8885 for a ten mile CO to Premises two fiber OC-3 circuit in Phase II MSAs under a one year term. This total consists of (1) two "nodes" for \$2700 each, (2) a remote node for \$925, (3) a fixed mileage charge of \$1100, (4) a variable mileage charge of \$1450 (\$145 x 10), and (5) a \$10 "COCC" charge per circuit. Other ILECs may sell slightly different element configurations to provide the same level of OCn service.

Verizon's tariffed OCn (and Ethernet) prices no longer appear to provide a reliable indication of Verizon's rates, because Verizon is in the process of detariffing its OCn (and Ethernet) services. **[proprietary begin] [proprietary end]**

Ethernet Price Charts

The Ethernet pricing charts compare the one year "discount" prices for TWTC's and the RBOCs' "switched Ethernet" products.⁵ **[proprietary begin] [proprietary end]** As with TDM and

⁵ Legacy SBC's switched Ethernet product is marketed as OPT-E-MAN and the rate elements can be found (for Ameritech) at FCC No. 73 § 43 *et seq.* Legacy BellSouth's switched Ethernet product is marketed as BellSouth Metro Ethernet Service and can be found FCC No. 1 § 7.5.22 *et seq.* Qwest's Switched Ethernet product is marketed as Qwest Metro Optical Ethernet and can be found at FCC No. 1 § 8.8 *et seq.*

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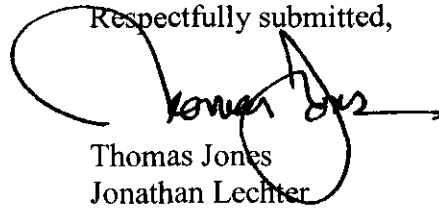
OCn rates, TWTC's "discounted" prices are the lowest discount price that TWTC's sales personnel can offer without managerial approval.

Switched Ethernet, as sold by the RBOCs and TWTC, generally has separate charges for every point of ingress and egress into the network. There is generally a charge (or combination of charges) for each end-user connection. For the sake of simplicity, this is described as a "loop" in the enclosed charts. There is generally also a separate charge for the network-to-network connection within the ILEC LSO between the ILEC's network and the TWTC collocation. In the charts we describe this as the "cross connect." When a customer purchases wholesale Ethernet service *from the RBOCs*, the customer must purchase a cross-connect facility large enough to accommodate the bandwidth transmitted by the loops purchased. For example, if an RBOC customer wants to buy two 300 Mbps loops, the customer must purchase a cross connect facility of at least 600 Mbps capacity.

There is a key difference in the manner in which the RBOCs and TWTC sell switched Ethernet.⁶ [proprietary begin] [proprietary end]

Please let us know if you have any questions with regard to this letter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas Jones", is written over the typed name and extends to the right with a long horizontal stroke.

Thomas Jones
Jonathan Lechter
Willkie Farr & Gallagher LLP
1875 K Street N.W.
Washington, D.C. 20006

Enclosure

⁶ The RBOC Ethernet price charts previously filed by TWTC in this docket assumed that the RBOCs only sell 1 Gbps cross-connects. TWTC has subsequently determined that this is not the case. Accordingly, the enclosed charts use RBOC prices that account for variably sized cross-connects. Notwithstanding this adjustment, the revised charts still show that RBOC Ethernet prices are far higher than TWTC's Ethernet prices.

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